

# SENATE BILL No. 491

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-26; IC 20-31-9-5.

**Synopsis:** Public school transfers. Establishes a public school transfer program that allows the parent of a student to request a transfer for the student to enroll in: (1) a different public school in the student's base school corporation; or (2) a public school in a different school corporation. Allows school corporations to enter into an interlocal agreement under which students whose legal settlement is in one school corporation may attend school in the other school corporation. Allows a student who has legal settlement in one school corporation and whose parent owns property for which the parent pays property tax in another school corporation to attend school in the latter school corporation without transfer tuition being charged. Requires a school corporation to provide notice to parents concerning the publication of the school corporation's annual performance report and concerning the right of students to transfer out of schools that fail to perform adequately.

**Effective:** July 1, 2009.

**Kenley**

January 15, 2009, read first time and referred to Committee on Education and Career Development.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 491

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 20-26-11-0.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. (a) This chapter does not**  
4 **apply to a student who, under:**

5 (1) section 31 or 32 of this chapter; or

6 (2) the public elementary and secondary school transfer  
7 program (IC 20-26-11.5);

8 attends a public school that is outside the school corporation where  
9 the student has legal settlement.

10 (b) A provision in section 5 of this chapter or another law or  
11 rule that would otherwise require a transferor school to approve  
12 a student transfer under section 30 or 31 of this chapter or  
13 IC 20-26-11.5 or otherwise permit a transferor school to appeal to  
14 the department, a court, or another entity any aspect of a student  
15 transfer under section 30 or 31 of this chapter or IC 20-26-11.5  
16 does not apply to a student transfer under section 30 or 31 of this  
17 chapter or IC 20-26-11.5.



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SECTION 2. IC 20-26-11-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 31. (a) The governing body of a school corporation may enter into an interlocal agreement under IC 36-1-7 with the governing body of another school corporation under which a student whose legal settlement is in the school corporation may attend school in the other school corporation.**

**(b) If a student attends school in another school corporation under an interlocal agreement described in subsection (a):**

**(1) the provisions of this chapter concerning transfer tuition do not apply; and**

**(2) the terms of the interlocal agreement concerning the payment of costs for the student's attendance apply.**

SECTION 3. IC 20-26-11-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 32. (a) This section applies to a student:**

**(1) who has legal settlement in a school corporation; and**

**(2) whose parent owns property for which the parent pays property taxes in a school corporation in which the student does not have legal settlement.**

**(b) Not later than April 1, the parent of a student to whom this section applies may notify the school corporation referred to in subsection (a)(2) that the parent intends to enroll the student in the school corporation referred to in subsection (a)(2) for the following school year.**

**(c) A school corporation that receives notice under subsection (b):**

**(1) shall enroll the student in an appropriate school within the school corporation;**

**(2) may not request the payment of transfer tuition for the student from the school corporation in which the student has legal settlement or from the student's parent; and**

**(3) shall include the student in the school corporation's ADM; if the principal of the appropriate school and the superintendent of the school corporation in which the school is located jointly agree to enroll the student in the school.**

**(d) A student to whom this section applies may not enroll primarily for athletic reasons in a school in a school corporation in which the student does not have legal settlement. A decision to allow a student to enroll in a school corporation in which the student does not have legal settlement is not considered a**

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determination that the student did not enroll primarily for athletic reasons.

(e) For a student to be eligible to enroll in a school in the school corporation referred to in subsection (a)(2) without the payment of transfer tuition, the property owned by the parent in the school corporation must not be owned primarily for the purpose of gaining access to the school corporation. In determining whether property is owned primarily for the purpose of gaining access to the school corporation, the following criteria shall be used:

(1) The property must be held by the parent at least one (1) year before the beginning of a school year in which the student enrolls in the school corporation.

(2) The property must be zoned for residential or commercial use.

SECTION 4. IC 20-26-11.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 11.5. Public Elementary and Secondary School Transfer Program**

**Sec. 1.** As used in this chapter, "ADM" has the meaning set forth in IC 20-43-1-6.

**Sec. 2.** As used in this chapter, "base school corporation" means the school corporation in which a student has legal settlement.

**Sec. 3.** As used in this chapter, "program" refers to the public elementary and secondary school transfer program established by section 5 of this chapter.

**Sec. 4.** As used in this chapter, "transfer" refers to a transfer under the program.

**Sec. 5.** The public elementary and secondary school transfer program is established.

**Sec. 6.** The department shall grant transfers and renewal transfers under this chapter on a date, specified by the department, that is before the beginning of a school year.

**Sec. 7. (a)** The department shall grant a transfer to a student if the following requirements are met:

(1) The student's parent requests a transfer for the student.

(2) The student's parent selects a school for the student to attend under the program.

(3) The school selected under subdivision (2) is a public school in Indiana and:

(A) is in the student's base school corporation but is not the school to which the school corporation has assigned the

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- 1 student; or
- 2 (B) is not a school in the student's base school corporation.
- 3 (4) Except as provided in section 14(b) of this chapter, the
- 4 principal of the school selected under subdivision (2) and the
- 5 superintendent of the school corporation in which the school
- 6 is located jointly agree to enroll the student in the school.
- 7 (b) The department shall grant a renewal transfer to a student
- 8 who meets the following requirements:
- 9 (1) The student previously received a transfer in any year.
- 10 (2) The requirements of subsection (a) are met.
- 11 (c) The department may not grant a transfer to a student who
- 12 wishes to enroll in a school primarily for athletic reasons. A
- 13 decision to allow a student to enroll in a school corporation in
- 14 which the student does not have legal settlement is not considered
- 15 a determination that the student did not enroll primarily for
- 16 athletic reasons.
- 17 Sec. 8. (a) Not later than April 1 before the beginning of a school
- 18 year for which a parent seeks enrollment of a student under the
- 19 program, the student's parent must notify the superintendent of
- 20 the school corporation in which the parent seeks to have the
- 21 student enrolled of the parent's request to have the student
- 22 enrolled.
- 23 (b) Not later than seven (7) days after receiving a request under
- 24 subsection (a), the superintendent of the school corporation in
- 25 which a parent seeks to enroll a student shall notify the
- 26 superintendent of the student's base school corporation of the
- 27 request. Upon receiving notification, the superintendent of the
- 28 student's base school corporation may send a letter to:
- 29 (1) the superintendent of the school corporation in which the
- 30 parent seeks to enroll the student; and
- 31 (2) the parent;
- 32 objecting to the transfer on the grounds that it would be
- 33 detrimental to the student for the transfer to be granted, along
- 34 with the reasons it is detrimental to the student. The letter shall be
- 35 made a part of the student's file, but the discretion to accept or
- 36 deny the transfer is solely the province of the transferee school
- 37 corporation.
- 38 (c) The superintendent of the school corporation in which a
- 39 parent seeks to enroll a student may deny the request on the
- 40 grounds that it is not in the best interests of the student.
- 41 Sec. 9. (a) The superintendent of the school corporation in which
- 42 a parent seeks enrollment of a student under the program:

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- (1) is not required to enroll the student; and
- (2) may not enroll the student if the enrollment will cause the school corporation to be out of compliance with a court order, including a court order described in IC 20-26-11-19.

(b) Subject to subsection (a), a superintendent may not refuse to enroll a student under the program in violation of IC 20-33-1 or because the student has a disability.

(c) A superintendent shall notify a parent who makes a request under section 8 of this chapter of the superintendent's decision not later than thirty (30) days after receiving a request for enrollment under section 8 of this chapter. If a superintendent does not notify a parent of the superintendent's decision within thirty (30) days after receiving a request for enrollment under section 8 of this chapter, the request to enroll is considered to be granted.

(d) A superintendent who accepts a student for enrollment under the program shall notify the superintendent of the student's base school corporation of the student's acceptance not later than fifteen (15) days after accepting the student.

**Sec. 10.** The following apply when a student transfers under this chapter to a school in the student's base school corporation:

- (1) There is no monetary transfer award.
- (2) There is no change in:
  - (A) the ADM of the school corporation; or
  - (B) state assistance to the school corporation.
- (3) The school corporation is not required to provide transportation for the student.

**Sec. 11.** Except as provided in section 12 of this chapter, the following apply when a student transfers under this chapter to a school that is not in the student's base school corporation:

- (1) IC 20-35-8-1 applies to the transfer of a student with a disability.
- (2) The student is included in the ADM of the school corporation into which the student transfers until the earlier of the following:
  - (A) The date the student graduates from a high school.
  - (B) The date of the end of the school year during which the student becomes eighteen (18) years of age.
- (3) The school that enrolls the student shall include the student in the school's ADM.
- (4) The parent of the student is responsible for all costs of the student attending the school that exceed the amount of the state base tuition support per ADM.

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(5) Except as provided in IC 20-35-8-2, the student's base school corporation and the school corporation that enrolls the student are not responsible for providing transportation for the student.

Sec. 12. (a) This section applies to a student who, at the time a transfer is granted under the program, is enrolled in either an accredited or a nonaccredited nonpublic school.

(b) The school that enrolls a student to whom this section applies shall include the student in the school's ADM.

Sec. 13. Except as provided in section 14(b) of this chapter, at the end of each school year, the superintendent of the school corporation that enrolls a student under the program and the principal of the school the student attends shall jointly determine whether to enroll the student for the following school year.

Sec. 14. (a) The governing body of a school corporation may adopt a policy that sets guidelines to be used in determining whether to:

- (1) accept a student for enrollment under the program; and
- (2) continue a student's enrollment under the program.

(b) Notwithstanding sections 7(a)(4) and 13 of this chapter, a policy adopted under this section may provide that the governing body shall make the determination of whether to enroll a student or to continue a student's enrollment under the program.

Sec. 15. A school corporation or school may not solicit the parent of a student to transfer the student to the school corporation or school.

Sec. 16. For purposes of accountability for performance and assessing school improvement under IC 20-31, a student who transfers to a school under the program is included as a student in the school to which the student transferred.

Sec. 17. The department shall establish procedures to administer this chapter.

Sec. 18. The state board may adopt rules under IC 4-22-2 to implement and administer the program.

SECTION 5. IC 20-31-9-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section applies to a school that has been placed in the lowest performance category for a third or subsequent year under this chapter.

(b) Before March 1 of each year, the school shall notify the parent of each student in the school of the parent's right to request a transfer for the student for the following school year to a

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different school within the same school corporation or in another school corporation under IC 20-26-11.5.

(c) The notice provided under this section must set forth in an easily understood format a parent's transfer options for a student, including a list of schools in the student's current school corporation:

- (1) that are in a higher performance category; and
- (2) to which the student's parents may request a transfer for the student.

(d) If:

- (1) a school corporation is unable to comply with the transfer request under IC 20-26-11.5 of the parent of a student enrolled in a school to which this section applies; or
- (2) the parent requests additional transfer options for the student;

the superintendent of the school corporation that is unable to comply with the transfer request shall meet with the parent to discuss options for the student.

SECTION 6. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "department" refers to the department of education established by IC 20-19-3-1.

(b) As used in this SECTION, "school year" has the meaning set forth in IC 20-18-2-17.

(c) The department shall grant transfers under IC 20-26-11.5, as added by this act, beginning with the 2010-2011 school year.

(d) This SECTION expires July 1, 2012.

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